

REMARKS

The outstanding issues in the instant application are as follows:

- Claims 1, 3-4, 7-12, and 14-18 are rejected under 35 U.S.C. § 102(e);
- Claims 2, 5, 6, 13, and 19 are rejected under 35 U.S.C. § 103(a).

Applicant hereby traverses the outstanding objections and rejections, and requests reconsideration and withdrawal in light of the remarks contained herein. Claims 1-19 are pending in this application.

I. AMENDMENTS

Applicants have amended claim 18 to replace the word “code” with “means.” Support for this amendment can be found in the specification at least at p. 9, lines 10 – 16. No new matter was added.

II. REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 1, 3-4, 7-12, and 14-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,363,149 to Candelore (hereinafter *Candelore*).

It is well settled that to anticipate a claim, the reference must teach every element of the claim, *see* M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” *see* M.P.E.P. § 2131, *citing In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” *see* M.P.E.P. § 2131, *citing Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicants respectfully assert that the rejection does not satisfy these requirements.

A. Claims 1, 3, 4, 7, and 8

Claim 1 requires, “a clearinghouse for providing verified entitlement information to at least one entitlement service provider,” where the clearinghouse comprises:

- a database for receiving said entitlement information from an entitlement enterprise;
- a secure access point for authorized ones of said at least one entitlement service provider to interactively access said clearinghouse;
- a clearinghouse monitor for controlling access to said clearinghouse from said secure access point responsive to access information provided by said entitlement enterprise; and
- a data structure for searching said database for entitlement information responsive to data provided by said entitlement service provider.

The Examiner cites generally to the Abstract, all of the figures and associated text, and column 6, lines 18-51 of *Candelore* to support his rejection of claim 1. However, *Candelore* does not teach or even suggest the limitations of claim 1.

Candelore describes a method and apparatus for accessing stored digital programs. Title, Abstract. In particular, *Candelore* describes a digital device that receives a digital bitstream of television programming from television service provider. Col. 4, lns 6–11. Part of the transmitted programming in this bitstream may be scrambled. Col. 4, lns 43–51. In order to view the scrambled program data, a key must be used by the digital device. Col. 4, lns 31–35. The key is provided to the digital device in the bitstream through entitlement control messages (ECM). Col. 6, lns 40–51. The Examiner does not clearly point out what entity from *Candelore* comprises the claimed clearinghouse. In fact, *Candelore* does not teach or suggest a clearinghouse that provides verified entitlement information to at least one service provider, as required in claim 1.

The Examiner does not state which element of *Candelore* corresponds to the database of claim 1. In fact, *Candelore* does not teach or suggest a database. The key that allows the digital device to unscramble the program information, which is arguably the element of *Candelore* closest to entitlement information, is contained in an ECM message that is part of the bitstream transmission from the service provider. Col. 6, lns 29–51. The ECM message is not a database, as required by claim 1.

The Examiner also does not state which element of *Candelore* corresponds to the secure access point to the clearinghouse required in claim 1. In addition to the failure to

teach a clearinghouse, *Candelore* also does not teach or suggest any secure access point; not even to the subject digital device. *Candelore* merely describes the digital device receiving a bitstream from the service or content provider. Col. 4, lns 6–11. No suggestion of a secure access point is noted. Moreover, beyond the fact that no clearinghouse or secure access point is disclosed, *Candelore* also does not teach or suggest a clearinghouse monitor for controlling access to a clearinghouse, as required by claim 1.

The Examiner also does not state which element of *Candelore* corresponds to the data structure required in claim 1. In addition to the failure to teach a database, *Candelore* also does not teach a data structure for searching a database responsive to data provided by an entitlement service provider. The key is provided by the service provider in the ECM message. Col. 6, lns 40–51. It does not supply any additional data that triggers a data structure to be used to search anything. *Candelore* does describe the structure of various messages sent from the service provider, such as the ECM messages and entitlement management messages (EMM), which may contain historical keys. Figures 6A–E, 8A–C. However, the structures described are not used to search anything.

Therefore, Applicants respectfully assert that, for the above reasons, claim 1 is patentable over the 35 U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 1 and *Candelore*, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 3, 4, 7, and 8 each depend directly from base claim 1, and thus inherit all of its limitations. Moreover, each of claims 3, 4, 7, and 8 sets forth features and limitations in addition to the inherited limitations of claim 1 that are not taught or even suggested by *Candelore*. Thus, Applicants respectfully assert that, for the above reasons, claims 1, 3, 4, 7, and 8 are patentable over the 35 U.S.C. § 102 rejection of record.

B. Claims 9-12 and 14-17

Claim 9 requires:

authorizing access to said list of entitlement information based on corresponding access information;

providing entitlement service suppliers with authorization secure access to

said list; and

searching said list for entitlement responsive to identification data provided by said entitlement service suppliers.

The Examiner cites generally to the Abstract, all of the figures and associated text, and column 6, lines 18-51 of *Candelore* to support his rejection of claim 9. However, *Candelore* does not teach or even suggest the limitations of claim 9.

The Examiner does not specifically state where *Candelore* teaches authorizing access to the list of entitlement information based on corresponding access information. In fact, *Candelore* does not teach or even suggest this limitation. The key for scrambling or unscrambling the program data is found in the ECM that is in the bitstream received from the *Candelore* service provider. Col. 6, lns 29–51. Once received by the digital device, no authorization access is discussed or needed in order to access the ECM to derive the key. Furthermore, the digital device, or any of its components, do not provide corresponding access information in order to receive authorization to access the key within the ECM. Thus, *Candelore* does not teach or suggest this limitation of claim 9.

The Examiner also does not specifically state where *Candelore* teaches providing entitlement service suppliers with authorization secure access to the list of entitlement information. In fact, *Candelore* teaches that the service provider generates the ECM with the key included therein. Col. 4, lns 6–34. It does not teach or even suggest that the service provider requires authorization secure access to the list of entitlement information that it created and transmitted to the subject digital device. *Candelore* does not teach or suggest that the service provider even attempts to access the key within the ECM once the ECM has been transmitted to the digital device. Thus, *Candelore* does not teach or suggest this limitation of claim 9.

The Examiner additionally does not specifically state where *Candelore* teaches searching the list for entitlement responsive to identification data provided by the entitlement service supplier. The key, in *Candelore*, is provided by the service provider in the ECM message. Col. 6, lns 40–51. The service provider does not supply any additional identification data that triggers a search of anything. *Candelore* does describe the structure of

various messages sent from the service provider, such as the ECM messages and entitlement management messages (EMM), which may contain historical keys. Figures 6A–E, 8A–C. However, *Candelore* does not describe searching a list responsive to any identification data provided by the service provider. Thus, *Candelore* does not teach or suggest this limitation of claim 9.

Therefore, Applicants respectfully assert that, for the above reasons claim 9 is patentable over the 35 U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 9 and *Candelore*, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 10-12 and 14-17 each depend directly from base claim 9, and thus inherit all of its limitations. Moreover, each of claims 10-12 and 14-17 sets forth features and limitations in addition to the inherited limitations of claim 9 that are not taught or even suggested by *Candelore*. Thus, Applicants respectfully assert that, for the above reasons, claims 9-12 and 14-17 are patentable over the 35 U.S.C. § 102 rejection of record.

C. Claim 18

Claim 18, as amended, requires:

means for storing said entitlement information and said access information;

means for securing an interface to said entitlement authority;

means for authorizing access to said entitlement service provider for verifying entitlement;

means for receiving data from and entitlement service provider for verifying entitlement;

means for searching said stored entitlement information using said data;

means for providing results of said searching.

The Examiner again cites generally to the Abstract, all of the figures and associated text, and column 6, lines 18-51 of *Candelore* to support his rejection of claim 18. However, *Candelore* does not teach or even suggest the limitations of claim 18.

The Examiner does not state which element of *Candelore* corresponds to the means for storing entitlement information and access information. The key, in *Candelore*, used to scramble and/or unscramble program data is included by the service provider in ECM messages transmitted to the subject digital device. Col. 6, lns 40–51. The inclusion of the key within the ECM message is not reasonably equivalent to storing entitlement information. Moreover, *Candelore* does not teach or even suggest access information at all. Thus, *Candelore* does not teach or suggest this limitation of claim 18.

The Examiner also does not state which element of *Candelore* corresponds to the means for securing an interface to the entitlement authority required in claim 18. In addition to the failure to teach an entitlement authority, *Candelore* also does not teach or suggest any secure interface; not even to the subject digital device. *Candelore* merely describes the digital device receiving a bitstream from the service or content provider. Col. 4, lns 6–11. No suggestion of a secure interface is noted. Thus, *Candelore* does not teach or suggest this limitation of claim 18.

The Examiner also does not specifically state which element of *Candelore* corresponds to the means for authorizing access to the entitlement authority responsive to access information. In fact, *Candelore* does not teach or even suggest this limitation. The key for scrambling or unscrambling the program data is found in the ECM that is in the bitstream received from the *Candelore* service provider. Col. 6, lns 29–51. Once received by the digital device, no authorization access is discussed or needed in order to access the ECM to derive the key. Furthermore, the digital device, or any of its components, do not provide access information in order to receive authorization to access the key within the ECM. Thus, *Candelore* does not teach or suggest this limitation of claim 18.

The Examiner also does not specifically state which element of *Candelore* corresponds to the means for receiving data from an entitlement service provider for verifying entitlement. According to claim 18, an entitlement party provides the entitlement information. The key, from *Candelore*, that is received from the service provider, is arguably the closest element to entitlement information. Thus, the service provider would, therefore, arguably correspond to the entitlement party. According to the specification, the entitlement party and the entitlement service provider may be the same entity when the entity is both the

party establishing entitlement rights and the party that provides the entitled service. P. 9, lns 6–10. However, the data received by the entitlement service party, of claim 18, is not the same as the entitlement information or key. Thus, this element of claim 18 requires other data to be received from the service provider for use in verifying entitlement. *Candelore* does not teach or suggest any additional data communicated from the service provider that the digital device uses to establish entitlement. Thus, *Candelore* does not teach or suggest this limitation of claim 18.

The Examiner additionally does not specifically state what element from *Candelore* corresponds to the means for searching the stored entitlement information using the data provided by the entitlement service provider. The key, in *Candelore*, is provided by the service provider in the ECM message. Col. 6, lns 40–51. As noted above, the service provider does not supply any additional identification data or access data that is used to search anything. *Candelore* does describe the structure of various messages sent from the service provider, such as the ECM messages and entitlement management messages (EMM), which may contain historical keys. Figures 6A–E, 8A–C. However, *Candelore* does not describe any means for searching stored entitlement information using any data provided by the entitlement service provider. Moreover, because *Candelore* does not teach a means for searching, it also does not teach or suggest any means for providing the results of a search. Thus, *Candelore* does not teach or suggest these limitations of claim 18.

Therefore, Applicants respectfully assert that, for the above reasons, claim 18, as amended, is patentable over the 35 U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 18, as amended, and *Candelore*, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

III. REJECTIONS UNDER 35 U.S.C. § 103(a)

Claim 2 and claims 5, 6, 13, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Candelore* in view of U.S. Patent No. 6,744,892 to Akins, et al. (hereinafter *Akins*) and over *Candelore* in view of U.S. Patent No. 6,570,967 to Katz (hereinafter *Katz*), respectively.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Applicants assert that the rejection does not satisfy these criteria.

A. Claim 2

The Examiner admits that *Candelore* does not teach or suggest “a certification engine for providing certified results from said data structure search.” He attempts to cure this deficiency by offering *Akins*. However, even with the combination of *Candelore* and *Akins*, all of the limitations of claim 2 are not taught or suggested.

Claim 2 depends directly from independent claim 1 and, thus, inherits each limitation of claim 1. As noted above, *Candelore* does not teach or suggest each of the limitations of claim 1. Applicants assert that *Akins* also does not teach or suggest each of the limitations of claim 1, nor does the Examiner assert such. Additionally, *Akins* does not teach or even suggest the limitation of claim 2.

The Examiner cites to Figures 21, 23, 25, and 29 and the accompanying text to support his rejection of claim 2 based on *Akins*. Figure 21 is a block diagram illustrating a forward purchase message. Figure 21. Figure 23 is another illustration of a message, a code message, that is used in authenticating data for applications running on a Digital Home Communication Terminal (DHCT). Figure 23. Figure 25 is a diagram of the main components of a Transaction Encryption Device (TED) for encrypting messages to the DHCT. Figure 25. Figure 29 is a diagram of an Entitlement Management Message (EMM) generator. Figure 29. However, nothing in these Figures or in the accompanying text teaches or suggests a certification engine that provides certified results from a data structure search for entitlement information responsive to data provided by the service provider. In fact, *Akins* teaches when a user of a DHCT wishes to purchase an instance of service offered by an entitlement agency, the user sends a purchase order to the EA. Col. 41, ln 59–Col. 42, ln 7. Therefore, the system that operates across the elements described in *Akins* Figures 21, 23, 25,

and 29 is triggered by data sent by the user and not the service provider as required in claim 2. Thus, the combination of *Candelore* and *Akins* does not teach each and every limitation of claim 2. Applicants respectfully assert that, for the above reasons, claim 2 is patentable over the 35 U.S.C. § 103(a) rejection of record.

B. Claims 5, 6, 13, and 19

With regard to claim 5, the Examiner admits that *Candelore* does not teach or suggest a secure access point including a controlled access computer terminal for manually entering entitlement information provided by the entitlement enterprise. With regard to claim 6, the Examiner admits that *Candelore* does not teach or suggest a secure access point including an interactive voice response (IVR) unit for facilitating verbal access to the clearinghouse. With regard to claim 13, the Examiner admits that *Candelore* does not teach or suggest an assembling step that comprises the steps of receiving entitlement information from entitlement parties and manually entering the entitlement information on to the list of entitlement information. With regard to claim 19, the Examiner admits that *Candelore* does not teach or suggest a means for receiving step and a means for providing step that include means for providing voice interaction with the entitlement authority. The Examiner attempts to cure these multiple deficiencies by offering *Katz*, which he alleges teaches such limitations. However, even with the combination of *Candelore* and *Katz*, all of the limitations of claim 19 are simply not taught.

Claims 5 and 6 depend directly from independent claim 1. Claim 13 depends directly from independent claim 9, and claim 19 depends directly from independent claim 18. As such, each of the rejected claims inherits the limitations of claims 1, 9, and 18, respectively. As noted above, *Candelore* does not teach or suggest each of the limitations of claims 1, 9, and 18. Applicants further assert that *Katz* also does not teach or suggest each of the limitations of claims 1, 9, and 18, nor does the Examiner assert such. Therefore, Applicants respectfully assert that, for the above reasons, claims 5, 6, 13, and 19 are patentable over the 35 U.S.C. § 103(a) rejection of record.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10013274-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482735041US, in an envelope addressed to: MS Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: March 30, 2005

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